

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

WILLIAM E. IRVING,

Plaintiff,

v.

UNKNOWN WELLS, et al.,

Defendants.

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No. 1:18-CV-47 JMB

MEMORANDUM AND ORDER

This matter is before the Court upon review of plaintiff's pro se letter to the Court dated February 24, 2018, which the Court will construe as a Prisoner Civil Rights Complaint Under 42 U.S.C. § 1983. The complaint is defective because it has not been drafted on the Court's form. *See* E.D. Mo. Local Rule 2.06(A). Additionally, plaintiff must either pay the filing fee or file a motion to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a).

Because plaintiff is proceeding pro se, the Court will allow plaintiff to file an amended complaint on the Court's form. All claims in the action must be included in one, centralized complaint form. *See* Fed. R. Civ. P. 7(a)(1), 8(a). Additionally, plaintiff is warned that the filing of an amended complaint replaces the original complaint, so plaintiff must include each and every one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005).

Plaintiff must also clearly state the defendants whom he is pursuing allegations against, and he must clearly identify the name and title of each defendant. He must also articulate, for each of those defendants, the factual circumstances surrounding their alleged wrongful conduct. Plaintiff's failure to make specific and actionable allegations against any of the defendants will

result in their dismissal from this case. Plaintiff should also articulate in what capacity he is bringing claims against defendants, whether it is in their official or individual capacities or both. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690-91 (1978). If plaintiff fails to sue defendants in their individual capacities, this action may be subject to dismissal.

All of plaintiff's claims should be clearly set forth in the "Statement of Claim." If plaintiff fails to file an amended complaint on the Court's form within thirty days and in compliance with the Court's instructions, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to plaintiff a copy of the Court's prisoner civil rights complaint form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to plaintiff a copy of the motion to proceed in forma pauperis form for prisoners.

IT IS FURTHER ORDERED that plaintiff must file an amended complaint on the Court's form within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that plaintiff must either pay the \$400 filing fee or submit a motion to proceed in forma pauperis within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if plaintiff files a motion to proceed in forma pauperis, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the complaint.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-compliance with this Order, the dismissal will not count as a “strike” under 28 U.S.C. § 1915(g).

Dated this 5th day of March, 2018.

/s/ **John M. Bodenhausen**
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE